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6 UNITED STATES DISTRICT COURT  
 7 EASTERN DISTRICT OF WASHINGTON

8 UNITED STATES OF AMERICA, )

9 Plaintiff, )

10 vs. )

11 RONALD JAMES DAVENPORT, )

12 Defendant. )

Case No. 2:10-CR-0061-KI

Response to Defendant's  
 Motions for

-Discovery (77)

-Disclosure of Grand Jury

Testimony (78)

-Notice (79)

14 The requested discovery orders appear unnecessary. Therefore, the United  
 15 States requests that the motions be denied. Alternatively, the government requests  
 16 that any discovery order impose an appropriately reciprocal obligation on the part  
 17 of the defendant. *See* Fed. R. Crim. P. 16(b).

18 Insofar as the motions request more than the rules of discovery already  
 19 require, no showing of a particular need for the additional disclosures is made.  
 20 Moreover, the government has yet to decline a single request from the defendant  
 21 for available discovery. The defendant has a complete report of investigation and  
 22 supplemental material. As other material becomes available, it will be provided to  
 23 the defendant's counsel.

24 After these latest discovery motions were filed, government counsel called  
 25 the defense counsel and discussed the discovery posture of the case. Additional  
 26 consultations are likely. As for the specific items requested in his motions, the  
 27 Government responds as follows.

1        Witness List. The government has yet to finalize its list of witnesses, but  
2 anticipates calling each of the victims of the defendant's false liens. It may also  
3 call employees from the government offices where the liens were filed and a  
4 witness as to the defendant's in-court statements about the liens. These statements  
5 were made in a civil state action (*McDevitt v. Davenport*, No. 10-2-00457-7  
6 (Spokane County Super. Ct.)), and a copy of the relevant hearing transcript has  
7 been provided to the defense. As preparation for trial moves forward, additional  
8 witnesses may become necessary.

9        Exhibit List et al. The government has yet to finalize its exhibit list, but  
10 anticipates introducing certified copies of the liens that the defendant filed, a  
11 recording of statements that he made in the state court proceeding mentioned  
12 above, and evidence from other litigation (e.g., *Davenport v. Long Beach*  
13 *Mortgage Co.*, No. CS-03-0476-LRS (E.D. Wash.)) in which similar conduct by  
14 the defendant was rejected by the court as invalid. The defendant has permission  
15 to review and examine any of this evidence and should have independent access to  
16 much of it.

17        404(b) Evidence. As indicated above, the general nature of evidence the  
18 government may present under Fed. R. Evid. 404(b) involves similar conduct by  
19 the defendant (e.g., intimidating liens or notices of claim) in other litigation that a  
20 court or other authority has rejected as invalid.

21        Co-conspirator Statements. The government does not presently intend to  
22 introduce any co-conspirator statements against the defendant.

23        Experts. The government does not presently intend to introduce any expert  
24 witness or summary at trial, unless perhaps to explain the proper uses of a  
25 maritime lien. Notices will be provided when and if such a witness or any other  
26 expert is deemed necessary.

27        Reports of Examinations and Tests. The government is presently unaware  
28 of any report of examination or test relating to this case. Although a mental

1 evaluation of the defendant was ordered in connection with the defendant's motion  
2 for conditional release, the government understands that a written report was never  
3 prepared.

4 Brady Material. As such material becomes apparent, the government will  
5 continue to notify the defense.

6 Rule 609 Evidence. The government is unaware of any record of  
7 conviction that could be used against the defendant in this case.

8 Grand Jury Testimony. The government has no transcript of grand jury  
9 testimony given by a person who is expected to be called as a witness at trial.

10 Rule 12(b)(3) Evidence. In clearing out the house that was subject to  
11 foreclosure, the defendant left behind certain documents. The government has not  
12 yet determined what, if any, admissible evidence may exist among those  
13 documents. The defendant certainly has permission to review them. Otherwise,  
14 the government is unaware of evidence--apart from what has already been  
15 provided to the defense--that could be the subject of a suppression motion.

16 Of course, further disclosures will be made as necessary and pursuant to  
17 the government's ongoing discovery obligations.

18 Conclusion

19 The Court should deny the defendant's three motions. Court orders are  
20 unnecessary to trigger the usual discovery obligations, and the defendant has  
21 failed to demonstrate how those obligations are inadequate in this case.

22 RESPECTFULLY SUBMITTED on December 3, 2010.

23  
24 John A. DiCicco  
Acting Assistant Attorney General

25  
26 s/ Brian D. Bailey  
27 Brian D. Bailey  
Trial Attorney  
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Certificate of ECF Compliance/Mailing

I hereby certify that on December 3, 2010, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF System which will automatically send notification of such filing to the opposing party's representative, as follows:

Peter S. Schweda, Esquire.

s/ Brian D. Bailey  
Brian D. Bailey  
Trial Attorney